

# **EXHIBIT 3**

1 *Law Offices of*  
2 **BONNETT, FAIRBOURN,**  
3 **FRIEDMAN & BALINT, P.C.**  
4 2325 E. Camelback Road, Suite 300  
5 Phoenix, Arizona 85016  
6 Telephone: (602) 274-1100  
7 Ty D. Frankel (AZ Bar No. 027179)  
8 [tfrankel@bffb.com](mailto:tfrankel@bffb.com)

9 *Law Offices of*  
10 **BONNETT, FAIRBOURN,**  
11 **FRIEDMAN & BALINT, P.C.**  
12 600 W. Broadway, Suite 900  
13 San Diego, California 92101  
14 Telephone: (619) 756-7748  
15 Patricia N. Syverson (AZ Bar No. 020191)  
16 [psyverson@bffb.com](mailto:psyverson@bffb.com)

17 *Law Offices of*  
18 **DEVON K. ROEPCKE, PC**  
19 170 Laurel Street  
20 San Diego, CA 92101  
21 Telephone: (619) 940-5357  
22 Devon K. Roepcke (AZ Bar No. 028495)  
23 [droepcke@lawdkr.com](mailto:droepcke@lawdkr.com)

24 *Attorneys for Plaintiff*

25 **IN THE UNITED STATES DISTRICT COURT**  
26 **DISTRICT OF ARIZONA**

27 James Saunders,

Case No. 2:17-cv-03943-SPL

28 Plaintiff,

**DECLARATION OF JAMES SAUNDERS**

v.

Safelite Fulfillment, Inc.,

Defendant.

**DECLARATION OF JAMES SAUNDERS**

I, James Saunders, declare:

1. I have personal knowledge of the facts stated herein except as to those matters stated upon information or belief, and, as to those matters, I believe them to be true. If called as a witness, I could and would testify truthfully and competently to the matters stated herein.

2. On or around August 27, 2012, I was hired by Safelite in a sales role at its Chandler, Arizona call center, where I worked until January of 2018.

3. My job title was Telephone Sales Representative, which Safelite referred to as TSR.

4. Safelite has customers nationwide, who typically call in to Safelite's call center for assistance with auto glass repair and replacement.

5. My responsibilities generally consisted of fielding telephone calls from individuals with auto glass needs.

6. I received incoming calls from potential consumers needing auto glass repair or replacement. I then scheduled the necessary service to be performed by a technician working at one of Safelite's many Auto Glass Shops. During the phone call, I could also sell the customer new wiper blades to be installed at the time the glass service is performed.

7. I was paid an hourly wage of \$10.00 when I first started working for Safelite and my hourly wage eventually increased to \$12.83.

8. In addition to my hourly wage, I received non-discretionary incentive bonuses for the following: (1) an attendance bonus for working all hours scheduled in a pay period; (2) sales incentive pay for meeting or exceeding company sales and retention goals; (3) phone statistic incentive pay meeting or exceeding company phone statistic goals; and (4) wiper blade incentive pay meeting or exceeding company wiper blade sales goals. When it was earned, this non-discretionary incentive pay was paid out every week on my paycheck under the code "Comm TSR."



1       9. In addition to sales incentive pay, Safelite also has a practice of paying its  
2 employees a shift differential for certain hours they work, including overnight, early  
3 morning, and weekend hours. Safelite employees receive a shift differential of \$0.25 per  
4 hour for each hour worked between 3:00 p.m. and 10:59 p.m.. Safelite Employees receive  
5 a shift differential of \$0.50 per hour for each hour worked between 11:00 p.m. and 6:59  
6 a.m.. Safelite Employees receive a shift differential of \$0.75 per hour for each hour  
7 worked between 7:00 a.m. on Saturday and 6:59 a.m. Monday. This non-discretionary  
8 incentive pay was paid out every week on my paycheck under the code "Cc Shift Diff."

9       10. Attached hereto as Exhibit "A" is a true and correct copy of the "Telephone Sales  
10 Compensation Overview" which details the non-discretionary pay structure that applied to  
11 all other TSRs at Safelite.

12       11. When I was hired, I had to review and sign Exhibit "A" as a condition of my  
13 employment. I have personal knowledge that all TSRs review and sign this document as a  
14 condition of employment.

15       12. The first page of Exhibit "A" establishes the conditions under which a TSR can  
16 receive an Attendance Bonus, Telephone Statistical Performance Bonus, Wiper Blade  
17 Sales Bonus, and Retention Rate Commission. The second page of Exhibit "A" provides  
18 an explanation of the shift differentials, referred to as "Shift Premium," that Safelite pays  
19 TSRs.

20       13. Safelite has a computer system called "Safelite University" that contains  
21 important job-related information, as well as training modules and quizzes.

22       14. Any time there were changes to the bonus structure or any other policy at  
23 Safelite, a document called a "Fact Sheet" would be generated that stated the changes. A  
24 paper copy of the "Fact Sheet" would be placed at each workspace, and an electronic copy  
25 would be sent via email to each employee, and it would also be available in "Safelite  
26 University".

27       15. Once we reviewed the "Fact Sheet" we had to log into "Safelite University" and  
28 take a quiz on the policy changes to ensure that we understood it. If we did not pass the  
quiz, we would have to meet with a supervisor to have the policy explained to us. If there

1 were any quizzes we had not yet completed, we would have to complete them before we  
2 were able to access any of the other sections of "Safelite University".

3 16. Attached hereto as Exhibit "B" is a true and correct excerpt from my "Employee  
4 Summary Sheet," a document maintained by Safelite to track employment events for its  
5 employees. Exhibit "B" demonstrates that on September 6, 2012, I completed  
6 compensation training and quizzes on "Fact Sheets 1-6."

7 17. I have personal knowledge that Safelite applied the same practice regarding  
8 policies and policy changes to all employees at the call center.

9 18. For the purposes of TSRs' sales incentive pay, customers are divided into three  
10 categories: "commercial," "insurance," and "cash." Safelite sets different numerical sales  
11 goals for each of these groups.

12 19. "Commercial" customers include mechanic shops, trucking companies, and rental  
13 car fleets. "Commercial" customers are considered the easiest sales to close. For this  
14 reason, sales employees need to meet a high percentage of sales and retention to receive a  
15 small percentage of their sales in this category.

16 20. "Insurance" customers have been referred to Safelite by their insurance company  
17 and their replacement is going to be covered, so they are fairly likely to book with  
18 Safelite, but since they could choose to use a different company, the sales and retention  
19 goals for this category are slightly lower than those for "commercial" customers.

20 21. "Cash" customers are not going through insurance and have no obligation to use  
21 Safelite, so they are considered the hardest sale to close. As such, the sales and retention  
22 goals are lowest, and the bonus percentage is highest for "cash" customers.

23 22. If a TSR meets Safelite's numerical sales goal for any of the customer groups,  
24 "commercial," "insurance," or "cash", and beats the average sales number of his or her co-  
25 workers for that customer group, they receive a set percentage of the sales they made to  
26 that customer group.

27 23. For example if the sales goal for "cash" customers is to make sales in 45% of  
28 incoming "cash" customer calls, and the retention goal is 80%, meaning that 80% of the  
"cash" customers booked complete the services, a TSR receives a 2% commission on all



1 of his or her "cash" sales if they met or exceeded the sales and retention goals set by  
2 Safelite, and beat the sales and retention average among their co-workers.

3 24. I also received incentive pay for selling wiper blades to customers as I scheduled  
4 their services. If I sold wiper blades to 20% of the customers I scheduled for service, I  
5 received \$1.50 in incentive pay for each wiper blade sold.

6 25. My incentive pay, termed a "Comm TSR" on my pay checks, consisted of less  
7 than one half of my overall earnings during the typical pay period.

8 26. In addition to sales incentive pay and shift differentials, Safelite pays its  
9 employees quarterly and annual bonuses, which are non-discretionary. In order to receive  
10 this bonus, the employee has to have achieved certain goals for the quarter or year period  
11 in which the payment is made. If an employee qualifies for the bonus, the amount of the  
12 bonus is based on the number of hours the employee worked during the applicable period.  
13 When it is earned, this non-discretionary incentive pay is paid out on a separate check  
14 under the code "Ic Corp Hourly."

15 27. While working for Safelite, I routinely worked in excess of forty (40) hours per  
16 week as part of my regular schedule.

17 28. For example, during the typical week, I would be scheduled to work four ten hour  
18 shifts. My regular schedule was Monday, Wednesday, Thursday, and Friday each week  
19 from 5:00 a.m to 3:30 p.m., or from 6:00 a.m. to 4:30 p.m. I was expected to prepare my  
20 workspace before I started my shift, and clean up my workspace after my shift ended. I  
21 was allowed to be clocked in 5 minutes before my shift starts and 5 minutes after my shift  
22 ends to complete these tasks. This means it was not uncommon for me to work anywhere  
23 from a few minutes to thirty-five hours (35) of overtime.

24 29. When Safelite paid me overtime for my hours in excess of forty (40) it calculated  
25 my overtime rate as one and one half of my regular hourly rate of pay. Safelite failed to  
26 factor in my non-discretionary incentive pay, termed "Comm TSR," and shift differentials,  
27 termed "Cc Shift Diff," into my overtime rate in violation of the FLSA.

28 30. For example, my pay statement for the week of March 12, 2016 through March  
18, 2016 indicates that I worked 75.52 hours that week. I was paid for 35.52 hours of

1 overtime based on one and one-half of my regular hourly rate of \$12.83 per hour for that  
2 pay period. Safelite did not factor into my regular rate the \$468.08 I earned in incentive  
3 pay, termed "Comm TSR," on my pay statement for that pay period, or the \$28.48 shift  
4 differential payment, termed "Cc Shift Diff." If Safelite had properly calculated my  
5 overtime, my overtime rate for that week would have been \$26.38 instead of \$16.51.  
6 Safelite's failure to properly calculate my overtime rate caused me to be underpaid  
7 \$116.78 for this week. Attached hereto as Exhibit "C" is a true and correct copy of my  
8 paystub issued to me for the period of March 12, 2016 through March 18, 2016.

9 31. I have personal knowledge that my duties, hours and compensation were  
10 indicative of the similarly situated employees.

11 32. I have personal knowledge that Safelite's improper policies and compensation  
12 practices applied to me and all similarly situated employees working in sales for Safelite.

13 33. Safelite provided its employees, including myself, with written policies and  
14 procedures uniformly applicable to all employees governing the compensation practices  
15 applicable to us. Those policies and procedures, as well as any changes to them, and  
16 quizzes we were required to take regarding changes are contained in the "Safelite  
University" system.

17 34. I have personal knowledge that as a condition of employment, all TSRs in the  
18 Sales Department at Safeligh signed the same bonus structure agreement that I did. (See  
19 Exhibit "A"). I know this because it was part of the required materials in "Safelite  
20 University". As such, all other TSRs in the Sales Department at Safeligh, including but  
21 not limited to, Tery Deman, Patricia Hightower, Mark Miller, and Thomas Birch,  
22 qualified to receive the same "Comm TSR" non-discretionary incentive bonuses that I  
23 received.

24 35. Although I worked in the Sales Department, I was friends with Joann Linton, and  
25 Donna Kauhn who worked as TSRs at the Special Services Desk. I have personal  
26 knowledge from conversations I had with Ms. Linton, and Ms. Kauhn that TSRs working  
27 at the Special Services Desk did not qualify to receive "Comm TSR" non-discretionary  
28 incentive bonuses that I received, but they did qualify to receive the same wiper blade



1 bonus that Sales Department TSRs like Ms. Deman, Ms. Hightower, Mr. Miller, Mr.  
2 Birch, and I received.

3 36. I have personal knowledge that all TSRs at the Safelite call center were subject to  
4 the policy of paying shift differentials based on the hours worked. (See Exhibit "A"). This  
5 included, but was no limited to, Ms. Deman, Ms. Hightower, Mr. Miller, Mr. Birch, Ms.  
6 Linton, and Ms. Kuhn.

7 37. I have personal knowledge that all other TSRs working for Safeligh, including  
8 but not limited to Ms. Deman, Ms. Hightower, Mr. Miller, Mr. Birch, Ms. Linton, and Ms.  
9 Kuhn, qualified to receive the same non-discretionary quarterly and annual bonuses  
10 based on their sales.

11 38. Based on conversations that I had with Ms. Deman, Ms. Hightower, Mr. Miller,  
12 Mr. Birch, Ms. Linton, and Ms. Kuhn before and after our shifts, and during breaks, I  
13 have personal knowledge that they, along with several other TSRs, routinely worked  
14 overtime, just as I did.

15 39. I have personal knowledge from conversations I had with Ms. Deman, Ms.  
16 Hightower, Mr. Miller, Mr. Birch, Ms. Linton, and Ms. Kuhn that when they were paid  
17 overtime, the non-discretionary pay they received was not factored into their regular rate  
18 of pay for purposes of calculating their overtime rate. Their payroll records will  
19 definitively prove this to be true.

20  
21 I declare under penalty of perjury that the foregoing is true and correct.

22  
23 Executed this 25 day of April, 2018, in Phoenix, Arizona.

24  
25   
26 JAMES SAUNDERS  
27  
28



Declaration of James Saunders  
Exhibit “A”



## Telephone Sales Representative Compensation Overview

Safelite believes in recognizing and rewarding our employees for their individual contributions to the company's sales performance. Each TSR2 is eligible to receive a base wage of \$10 per hour, commission and bonus based on Key Performance Indicators (KPIs). Below we would like to inform you on how we reward performance.

In addition to your hourly rate you can earn bonuses and commission. Below is an outline of each opportunity.

Bonus & Commission Opportunities			
Attendance Bonus	Telephone Statistical Performance Bonus	Wiper Blade Sales Bonus	Retention Rate Commission
Work all scheduled hours each pay period & earn \$1.00 for every hour worked in the pay period.	Meet minimum statistical telephone standards & earn \$1.00 for every hour worked in the pay period.	Earn \$1.00 for every wiper blade invoiced.	Potential to add \$0.20 to \$2.00 for every invoice generated in a pay period, based on your Retention Rate.

### Sample Pay

<b>Attendance</b>	Participant worked 20 hours, as scheduled (\$1 x 20 hours)	Earns \$20 bonus
<b>Telephone Statistical Performance</b>	Participant met telephone standards (\$1 x 20 hours)	Earns \$20 bonus
<b>Retention Rate</b> <b>Consumer:</b> Appointment Budget- <b>46.8%</b> Retention Budget- <b>71.7%</b> <b>Insurance:</b> Appointment Budget- <b>92.1%</b> Retention Budget- <b>90.4%</b> <b>Commercial:</b> Appointment Budget- <b>74.7%</b> Retention Budget- <b>90.1%</b>	<b>Appointment minimum standards were met for Consumer &amp; Insurance, but not Commercial.</b> <b>Consumer segment:</b> <ul style="list-style-type: none"> <li>55 invoices</li> <li>Appointment Rate at 4% points above (50.8%)</li> <li>Retention Rate at 2.25% points above (73.95%)</li> <li>Achieved commission rate @ \$1.40 per invoice</li> <li><b>Earned commission \$1.40 x 55 = \$77.00</b></li> </ul> <b>Insurance segment:</b> <ul style="list-style-type: none"> <li>5 invoices</li> <li>Appointment Rate at 1.9% points above (94%)</li> <li>Retention Rate at 1% point above (91.4%)</li> <li>Achieved commission rate @ \$0.40 per invoice</li> <li><b>Earned Insurance commission \$0.40 x 5 = \$2.00</b></li> </ul> <b>Commercial segment:</b> <ul style="list-style-type: none"> <li>4 invoices</li> <li>Appointment Rate at 10% points below (64.7%)</li> <li>Retention Rate at 2% points above (92.1%)</li> <li>Achieved commission rate @ \$0.30 per invoice</li> <li><b>Commercial commission (Appointment rate not met) = \$0</b></li> </ul>	Earns \$79.00 (\$77.00 consumer + \$2.00 insurance) Total Bonus = \$79.00
<b>Wiper Blade Sales Bonus</b>	Invoiced 20 wiper blades (20 x \$1.00).	Earns \$20 bonus
<b>Total Bonus = \$99.00 (\$79.00 Retention Rate + \$20.00 Attendance + \$20.00 Wiper Blade Sales Bonus)</b>		



**Shift Premium**

In addition to the bonus and commission opportunities available, a shift premium will be paid if you are working 2<sup>nd</sup> shift, 3<sup>rd</sup> shift or weekends. This includes extra hours and overtime. Premiums are defined by the time of day you work as follows:

Shift	Time of Day	Premium
2 <sup>nd</sup> Shift	3:00 pm – 10:59 pm	\$0.25 per hour
3 <sup>rd</sup> Shift	11:00 pm – 6:59 am	\$0.50 per hour
Weekend	7:00 am Saturday – 6:59 am Monday	\$0.75 per hour

You will see a breakdown on your pay check each week for the shift premium. Shift premiums can not be combined.

**Payout Dates**

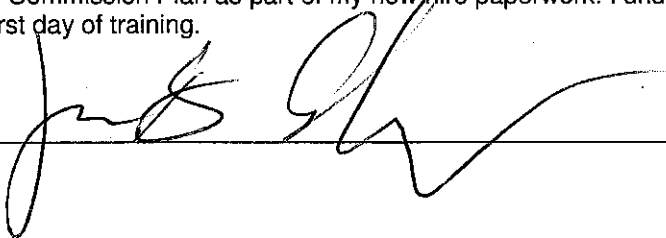
- The shift premium will be paid when you receive your regular hours at the base rate. Your weekly paycheck will have a one week delay for hours worked.
- Attendance and Phone Stats will be paid the second pay date after the end of the pay period.
  - During your first four weeks of employment your Telephone Statistics bonus will be automatically added to your hourly rate. Beginning week five you will earn your Telephone Statistics bonus based on performance.
  - Your attendance bonus will be earned from your first day of employment.
- Retention Commission and Wiper Bonus begin accruing immediately; however, these are calculated and paid the fourth pay date after the end of the pay period.

**Glossary of Terms:**

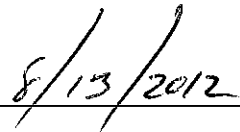
- Consumer sales- Customers who are paying cash for their service
- Segment- The type of order placed; consumer sale, insurance paying for service or commercial account sale
- Shift Premium- Incremental earnings added to an associate's base hourly wage depending on their hours worked
- Bonus- Paid for meeting attendance standards, telephone statistics & wiper blade sales
- Invoiced- Appointments that were retained, the work has been completed by the technician and payment has been received
- Commission- Earnings based on invoiced sales
- Corrective Counseling- In the event that performance falls below the minimum expectation verbal, written, final written warnings or termination will be discussed with the employee

I have read and understand the Telephone Sales Representative 2 compensation overview. I have also received a copy of the TSR2 Telephone Sales Commission Plan as part of my new hire paperwork. I understand that it is my responsibility to read this document prior to my first day of training.

Signature



Date



Declaration of James Saunders  
Exhibit “B”



## Employee Summary Sheet

Name: Saunders, James "Brad"Hire  
Date: 8/27/2012

DATE	INFRACTION	EXPLANATION	TIME(S)	VERBAL	WRITTEN	FOLLOW-UP
9/4/2012	Policies &	Weekly Time Edits - Attendance Policy - How to log in and out of phones for breaks - Checking breaks in 360 - Dress code and contact center policies - Sales Regeneration - Adjustor Cash Quote - Helpful Hint sheet review				*****
/ /	Procedures					*****
/ /						Training
9/5/2012	Policies &	Safelite University navigation - Credit card/Wipers - Sales Protocol - Maximizing sales revenue - Sales skills (overcoming objections, asking for the sale, rapport)				*****
/ /	Procedures					Training
9/6/2012	Policies &	Compensation training - Compensation quiz - Fact Sheets 1-6				*****
/ /	Procedures					Training
9/7/2012	Policies &	Impact 360 (how to view schedule and request time off) - Group email - Ultipro basics - Electronic handbook sign off - Schedules for weekend and next week - Call expectations (monitor sheet review) - Extra hours				*****
/ /	Procedures					Training
9/9/2012	Policies &	Mention All Fees				*****
/ /	Procedures					Coached
10/12/2012	Policies &	Left shift in AUX - 43 min				*****
/ /	Procedures					Coached
10/22/2012	Policies &	Unprofessionalism				*****
/ /	Procedures					FWW(10/26/12)
11/7/2012	Policies &	SU Feedback - Suggestion for pilot program to utilize a treadmill and walk in place while fielding calls				*****
/ /	Procedures					Coached
12/3/2012	Policies &	Not quoting Sate Farm chip repair price before creating a work order. Not putting unk for policy number on State Farm chip repairs he knows he needs to switch it to cash if he does not have the policy number.				*****
/ /	Procedures					Coached
12/19/2012	Policies &	Maximizing Sales Revenue - Mention all fees 12/10/12				*****
/ /	Procedures					Coached(12/21/12 @10:01)
12/26/2012	Absent	Shift -- Left Early	10:45 ~ 2:30	/ /	/ /	A-1/drop 1 yr 12/26/13
1/9/2013	Policies &	SU Feedback - websight copyright date				*****
/ /	Procedures					Coached
1/27/2013	Policies &	Left shift in AUX - 28 min				*****
/ /	Procedures					Coached
2/18/2013	Policies &	Compliment Call -- 2/11/13				*****
/ /	Procedures					Awarded
2/26/2013	Policies &	Selling Protocol - Adjustor Quote 2/11/13				*****
/ /	Procedures					Coached
2/28/2013	Absent	Shift -- Left Early	10:31 ~ 12	/ /	/ /	A-2/drop 90 days 1/28/13
4/5/2013	Policies &	SU Feedback -- SV2 price match				*****
/ /	Procedures					Coached
4/18/2013	Incentive	March Madness - \$50	~	/ /	/ /	Received
4/21/2013	Absent	Shift -- Sick	~	/ /	/ /	A-3/1/Drop 1 yr 4/21/14

Declaration of James Saunders  
Exhibit “C”





CO FILE # 000000-000000

PCSYNY 000428136

Cost Center 01170

Safelite Fulfillment Inc  
PO BOX 182000  
COLUMBUS, OH 43218-2000

# Earnings Statement

Page 001 of 001

Period Ending: 03/12/2016  
Advice Date: 03/18/2016  
Advice Number: 0005014007  
Batch Number: B2C9DX0000K0

Fed Marital Status: Single

## Exemptions/Allowances

Federal: 4  
Work In AZ: 0

James B Saunders  
1457 n 54th ln  
Phoenix, AZ 85043-1731

Earnings	Rate	Hours	This Period	Year-to-Date
CC Shift Dif			\$28.48	\$145.33
Corp Hourly				\$1,102.87
Holiday				\$126.07
Overtime	16.51	35.52	\$586.45	\$1,655.18
Regular Pay	11.01	40.00	\$440.28	\$4,689.97
TSR Commissi			\$468.08	\$2,578.01
GROSS PAY			\$1,523.29	\$10,297.43

Tax Deduction	Taxable Wages	Cur Tax Amt	YTD Tax Amt
AZ State Income T	\$1,345.86	\$10.77	\$261.96
Employee Medicare	\$1,467.72	\$21.28	\$140.47
Federal Income Ta	\$1,345.86	\$166.44	\$1,095.85
Social Security E	\$1,467.72	\$91.00	\$600.62
TOTAL Taxes		\$289.49	\$2,098.90

Employee Deductions	Cur Amount	YTD Amount
*401K	\$121.86	\$823.80
ADD	\$0.53	\$5.83
Charitable Don	\$1.00	\$11.00
*Dental Deluxe	\$7.50	\$82.50
Health Savings	\$20.00	\$220.00
Long Term Disab	\$1.62	\$17.82
Option Life Ins	\$1.51	\$16.61
*PremiumHSA Plan	\$26.25	\$288.75
Prior YR Benefi	\$0.00	-\$0.11
*Prior YR Benefi	\$0.00	-\$1.25
Short Term Disa	\$1.34	\$14.74
*Vision	\$1.82	\$20.02
TOTAL EE Deductions	\$183.43	\$1,499.71

## Other Benefits and

Information	This Period	Year-to-Date
TOTAL ER Deducts	\$134.70	\$1,326.69

© 2002 AutomaticData Processing (PCSDVO)



Safelite Fulfillment Inc  
PO BOX 182000  
COLUMBUS, OH 43218-2000

Advice Number: 0005014007

Advice Date: 03/18/2016

## Deposited to the account of

	Account Number	Transit	ABA	Amount
James B Saunders	XXXXXX5680	XXX7238		\$20.00
	XXXXXXXX3038	XXX5155		\$1,030.37

THIS IS NOT A CHECK